

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building

Room 210

9:00 a.m.

January 18, 2017

MINUTES

DIVISION STAFF PRESENT:

Jonathan Stewart, Division Director
Mark Fagergren, Education and Licensing Director
Kadee Wright, Chief Investigator
Justin Barney, Hearing Officer
Judith Jensen, Assistant Attorney General
Elizabeth Harris, Assistant Attorney General*
Eric Stott, Real Estate Analyst
Amber Nielsen, Board Secretary
Jennica Gruver, Real Estate Education Coordinator
Van Kagie, Investigator
Mark Schaerrer, Investigator
Sarah Nicholson, Investigator
Chris Martindale, Investigator
Teresa Larsen, Investigator
Hillarie Murray, Division Staff
Lacey Vawdrey, Division Staff
Connie Mickles, Division Staff
Faruk Halilovic, Division Staff

*Ms. Harris was only present for the Harper and Minchey Hearings

COMMISSION MEMBERS PRESENT:

Lerron Little, Chair
Lori Chapman, Vice Chair**
Russell K. Booth, Commissioner
Calvin R. Musselman, Commissioner

**Vice Chair Chapman arrived at 9:04 a.m.

GUESTS:

Tammy Lund	Heather Swanger
Kreg Wagner	Brian Swan
Elizabeth Harper	Travis Larsen
Doug Larsen	Blaine Larsen
Brian Minchey	Richard DeLoney
Tina Giles	

The January 18, 2017 meeting of the Utah Real Estate Commission began at 9:02 a.m. with Chair Little conducting. Vice Chair Chapman was absent for the start of the meeting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes – A motion was made and seconded to approve the minutes as written from the December 21, 2016 meeting of the Commission. Vote: Chair Little, yes; Commissioner Booth, yes; Commissioner Musselman, yes. The motion was approved.

There was no Public Comment.

DIVISION REPORTS

DIRECTOR'S REPORT – Jonathan Stewart

Director Stewart reported on the upcoming legislation. Since the last meeting there have been a few additional changes added to the bill. One of the changes deals with agents working with a Dual Broker. The change proposes a sales agent who works at the property management company under a dual broker would be designated a dual agent with duties under the property management company and sales duties under that broker's real estate sales company. There would be a fee to get that designation and the broker would have to approve that designation. Chair Little asked for clarification on a real estate sales agent doing property management. Commissioner Booth noted the use of the term "dual agent" might be confusing. This issue was discussed.

Director Stewart presented a second proposed change which would allow a branch broker to supervise up to three locations with up to 100 agents per branch location. This issue was discussed. The Commission generally feels this won't really cause much of a change in the industry, but adding a cap to the agents is a step toward having more control. This issue was discussed. Chair Little noted that in the past several years there have been more stipulations and hearings with brokers and he feels that is a good thing to require brokers to supervise their agents more.

Director Stewart stated that he spoke with the drafter and he believes the bill will be numbered this week or next week

Director Stewart reported at the last meeting it was decided that there would be a committee formed to discuss the earnest money and title company issue. Angie Watson from the Department of Insurance, Mr. Barney and Kurtis Hughes from the Division, Kreg Wagner from the UAR have agreed to be on that committee with Commissioners Booth and Musselman. Director Stewart will also be asking Shane Norris to be on the committee.

ENFORCEMENT REPORT – Kadee Wright

Ms. Wright reported there may be errors in the December statistics. However, the report states in the month of December the Division received 20 complaints; opened 16 cases; closed 37 cases; leaving 390 open cases. There are 56 cases assigned to the AG's office. Ms. Wright stated the computer system was seemingly counting the same case multiple times.

Stipulation for Review

Haley Peacock
Rolando E. Alfaro
Trenton C. Bright
Kaleb M. Washburn
Amado Villegas Zubiri
Kimberly (Tucker) Bowen

EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren reported the stats show 21,155 agents of which, 17,164 are active. That is a 6.5% increase over the past 11 months.

Mr. Fagergren introduced the new real estate licensing staff members: Hillarie Murray, Lacey Vawdrey, and Connie Mickles.

Vice Chair Chapman asked Mr. Fagergren to confirm that anyone renting out a home for 29 days or less, does not need to have a license. Mr. Fagergren stated that short-term rentals do not require a license. Vice Chair Chapman stated that this issue might be something the Division may want to consider changing.

HEARING OFFICER REPORT – Justin Barney

Stipulation for Review

Tyler B. Tolbert

COMMISSION AND INDUSTRY ISSUES

Mr. Barney reported the rule amendment on the advertising rules and amending appendices for broker experience points has finished the public comment period without comment. A motion was made to approve and make the rule amendment regarding the topic of Fair Housing and broker experience effective as filed. Vote: Chair Little, yes; Vice Chair Chapman, yes; Commissioner Booth, yes; Commissioner Perry, yes; Commissioner Musselman, yes. Director Stewart concurs. The motion was approved with Division concurrence.

Mr. Barney reported the 2017 bill allows the Commission with the Concurrence of the Director to adopt new rules with regards to the dual agent designation. Director Stewart stated that after discussion today it would be beneficial to clarify what an agent can or cannot do. The Division will draft the rule to have the rules in effect as

close as possible to the effective date of the bill should it pass. Mr. Barney stated there will also be rule authority to clarify ownership on a property for the licensing exemption for an owner. This issue was discussed. The Division stated they do not have an opinion on where the line should be drawn for this clarification; the Division just believes this issue should be clarified.

A brief recess was held from 10:06 a.m. to 10:14 a.m.

INFORMAL HEARINGS:

10:14 a.m. Elizabeth Harper – Application for Licensure

A brief recess was held from 10:47 a.m. to 10:49 a.m.

Ms. Harper's hearing concluded at 11:04 a.m.

A brief recess was held from 11:04 a.m. to 11:27 a.m.

11:27 a.m. Travis Larsen – Application for Licensure
 Witnesses for Mr. Larsen:
 Blaine Larsen, brother and broker
 Doug Larsen, father

Mr. Larsen's hearing concluded at 12:29 a.m.

A motion was made to close the meeting for the sole purpose of discussing the character, professional competence or physical or mental health of an individual. Vote: Chair Little, yes; Vice Chair Chapman, yes; Commissioner Booth, yes; Commissioner Perry, yes; Commissioner Musselman, yes. The motion was approved.

CLOSED TO PUBLIC

An Executive Session was held from 12:30 p.m. to 1:35 p.m.

OPEN TO PUBLIC

INFORMAL HEARING:

1:35 p.m. Brian Minchey – Application for Licensure
 Richard DeLoney, Counsel for Mr. Minchey

Witness for Mr. Minchey:
Tina Giles

A brief recess was held from 2:58 p.m. to 3:04 p.m.

Mr. Minchey's hearing concluded at 3:12 p.m.

A motion was made to close the meeting for the sole purpose of discussing the character, professional competence or physical or mental health of an individual. Vote: Chair Little, yes; Vice Chair Chapman, yes; Commissioner Booth, yes; Commissioner Perry, yes; Commissioner Musselman, yes. The motion was approved.

CLOSED TO PUBLIC

An Executive Session was held from 3:13 p.m. to 3:31 p.m.

OPEN TO PUBLIC

Results of Executive Session

Results of Stipulations

Jenny Pace – Approved with Division Concurrence
Dale Jaussi – Approved with Division Concurrence
Jared Zimmer – Approved with Division Concurrence
Cheryl Lynn Zimmer – Approved with Division Concurrence
Tony B. Yraguen – Approved with Division Concurrence

Ms. Harper, Mr. Larsen, and Mr. Minchey will be notified of the Commission's decision.

A motion was made and seconded to adjourn the meeting. Vote: Chair Little, yes; Vice Chair Chapman, yes; Commissioner Booth, yes; Commissioner Perry, yes; Commissioner Musselman, yes. The motion was approved. The meeting adjourned at 3:32 p.m.